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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FILED
HARRISBURG, PA
SEP 06 2002
MARY E. D'ANDREA, CLERK
Per
Deputy Clerk

GAIL GALLOWAY,
Plaintiff

vs.

PENNSYLVANIA BOARD OF
PROBATION AND PAROLE,
Defendants

CIVIL ACTION 1:00-CV-00649

Judge Sylvia H. Rambo ✓

BRIEF IN SUPPORT OF MOTION TO DISMISS

NOW comes the Defendant, Robert B. Stewart, by and through counsel, and files the within Brief in Support of Motion to Dismiss as follows:

FACTUAL BACKGROUND:

The Plaintiff, Gail Galloway, filed this civil action alleging violations of his son David's civil rights and his own civil rights on or about April 14, 2000. In his own behalf, Galloway alleged that Defendant Stewart had conspired with Defendant Judge William Caldwell to deprive Galloway of his civil rights.

All of the Defendant's responded to Plaintiff's Complaint by filing Motions to Dismiss. Defendant Stewart also filed a Motion to Dismiss.

By Order dated January 2, 2001 the Court dismissed any claims raised by

Plaintiff Gail Galloway on behalf of his son David. All other claims (i.e., the conspiracy claims) raised against Stewart remained.

On or about April 16, 2001, Defendant Stewart filed a Motion for Summary Judgment seeking discharge of all remaining claims against him. Defendant Stewart filed a Statement of Undisputed Facts along with the Summary Judgment Motion and Brief in Support of the Motion. Defendant Galloway did not respond to the Statement of Undisputed Facts. By Order dated July 15, 2002, the Court granted Defendant Stewart's Motion for Summary Judgment and dismissed Plaintiff's remaining claims against Defendant Stewart.

The Plaintiff has now filed an Amended Complaint in which he alleges Defendant Stewart did not properly serve him with court filing or adhere to filing time requirements in an habeas corpus/civil rights claim filed by Galloway on or about 1994.

ARGUMENT:

Plaintiff's Amended Complaint as to Defendant Stewart should be dismissed.

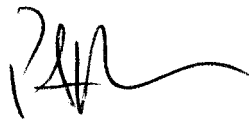
The Court in its order of July 16, 2002 determined that an amended complaint regarding Defendant Robert B. Stewart would be futile. Specifically, the Court stated:

"... the Court will not allow Plaintiff to amend his complaint with respect to Defendant Stewart. Plaintiff's original complaint alleged that Defendant Stewart, among other things, conspired with Defendant Mendelsohn in an illegal forfeiture of David Galloway's property. The Court dismissed this claim, finding that Plaintiff could not recover under

CERTIFICATE OF SERVICE

Certified, true and correct copies of the foregoing Brief in Support of Motion to Dismiss were served on all interested parties listed below by sending same first class mail, postage prepaid on September 5, 2002 to the following addresses:

Gail Galloway
RD #1, Box 30
Petersburg, PA 16669

A handwritten signature in black ink, appearing to read 'P. McManamon', written over a horizontal line.

Peter M. McManamon